

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment

**Transportation Conformity Incorporation by Reference
(LAC 33:III.1432) (AQ247*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.1432 (Log #AQ247*).

This proposed rule is identical to federal regulations found in 69 FR 40004-40081, No. 126 (July 1, 2004) and 69 FR 43325-43327, No. 138 (July 20, 2004), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4314, Baton Rouge, LA 70821-4314. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule revision incorporates by reference two federal transportation conformity rule amendments (as amended through July 20, 2004) into the state's existing transportation conformity regulations. The two federal amendments to 40 CFR Part 93 were promulgated by EPA to include conformity criteria and procedures for the new 8-hour ozone and fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS). This rule is also a revision to the state implementation plan (SIP) for transportation conformity.

On July 1, 2004, EPA published a final rule in the Federal Register (69 FR 40004) that substantially amends and revises the 40 CFR Part 93 transportation conformity regulation. This final rule also revises "the conformity regulation in the context of EPA's broader strategies for implementing the new ozone and PM_{2.5} standards." Subsequent to the July 1, 2004, conformity regulation amendments, EPA published a related amendment in 69 FR 43325 (July 20, 2004) that corrects two errors discovered in the preamble of the final rule. The corrections include revisions to a table in Section II.D of the preamble. The basis and rationale for this rule revision are to mirror the federal transportation conformity regulations as amended through July 20, 2004. Transportation conformity is required under Clean Air Act, Section 176(c) to ensure that federally supported highway and transit project activities conform to the purpose of a state air quality implementation plan (SIP).

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on February 24, 2005, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room C111, 602 N. Fifth Street, Baton Rouge, LA 70802. The

hearing will also be for the revision to the State Implementation Plan (SIP) to incorporate this proposed rule. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available across the street in the Galvez parking garage when the parking ticket is validated by department personnel at the hearing.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ247*. Such comments must be received no later than February 24, 2005, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Regulation Development Section, Box 4314, Baton Rouge, LA 70821-4314 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ247*. This regulation is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374.

Wilbert F. Jordan, Jr.
Assistant Secretary

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 14. Conformity

**Subchapter B. Conformity to State or Federal Implementation Plans of
Transportation Plans, Programs, and Projects Developed, Funded, or
Approved Under Title 23 U.S.C. or the Federal Transit Act**

§1432. Incorporation by Reference

A. 40 CFR Part 93, Subpart A, July 1, 2003~~4~~, is hereby incorporated by reference with the exclusion of Section 105. Also incorporated by reference are amendments published in the *Federal Register* on July 1, 2004 (69 FR 40004-40081, No. 126) and July 20, 2004 (69 FR 43325-43327, No. 138).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 24:1280 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:697 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31: